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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

HUANG 11-1-10

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on September 4, 2007

Signature

Karen Vertz

Typed or printed name Karen Vertz

Application Number

09/909,394

Filed

July 19, 2001

First Named Inventor

Gang Huang

Art Unit

2611

Examiner

Sudhanshu C. Pathak

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the



applicant/inventor.



assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)



attorney or agent of record. 48,981
Registration number



attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

J. Joel Justiss
Signature
J. Joel Justiss

Typed or printed name

972-480-8800

Telephone number

September 4, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.



*Total of 6 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is guaranteed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Gang Huang, *et al.*
Serial No.: 09/909,394
Filed: July 19, 2001
Title: SYSTEM AND METHOD FOR RECOGNIZING ZERO-AMPLITUDE
SYMBOLS IN A QAM SIGNAL AND DIGITAL RECEIVER
INCORPORATING THE SAME
Grp./A.U.: 2611
Examiner: Sudhanshu C. Pathak Confirmation No.: 9912

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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September 4, 2007 (Date)

Karen Vertz

(Printed or typed name of person signing the certificate)

/Karen Vertz/

(Signature of the person signing the certificate)

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The Appellants have carefully considered this application in connection with the Examiner's Final Rejection electronically delivered June 4, 2007, and respectfully request a pre-appeal brief review of this application in view of the following remarks.

REMARKS/ARGUMENTS

The Appellants originally submitted Claims 1-21 in the application. Previously, the Appellants amended Claims 1, 8, and 15. Accordingly, Claims 1-21 are currently pending in the application.

I. Rejection of Claims 1, 3, 6, 8, 10, and 13 under 35 U.S.C. §103

The Examiner has rejected Claims 1, 3, 6, 8, 10, and 13 under 35 U.S.C. §103(a) as being unpatentable over AAPA in view of U.S. Patent No. 6853,631 to Nakamura, *et al.*, and in further view of U.S. Patent No. 6,553,087 to Alelyunas, *et al.* The Appellants respectfully disagree with Examiner's rejection since the cited combination does not teach or suggest a zero-amplitude symbol interrupting a regular array of a constellation of symbols, wherein ideal symbols of the regular array are substantially equidistant to each other as recited in independent Claims 1 and 8.

In the Final Rejection of June 4, 2007, the Examiner recognized that AAPA does not disclose a constellation comprising a zero-amplitude symbol, the zero-amplitude symbol interrupting a regular array of the constellation of symbols and cited column 3, lines 34-39 and Figure 3 of Nakamura to cure this deficiency. (*See* Final Rejection electronically delivered June 4, 2007, page 3.) The Appellants, however, fail to find where column 3, lines 34-39 and Figure 3 of Nakamura teaches or suggests a zero-amplitude symbol interrupting a regular array. On the contrary, Figure 3 of Nakamura discloses a regular array that has a zero-amplitude symbol as part of the regular array of symbols shown. As evident from Figure 3 of Nakamura, the zero-amplitude symbol is substantially equidistant to other symbols in the array. As such, the zero-amplitude symbol of Nakamura does not interrupt the regular array of symbols and, therefore, the cited combination of AAPA and Nakamura does not teach or suggest each and every element of independent Claims 1 and 8. Additionally, the

Appellants do not find where Alelyunas, as cited by the Examiner, cures the deficiencies of the above combination of AAPA and Nakamura. Thus, the cited combination of AAPA, Nakamura, and Alelyunas does not establish a *prima facie* case of obviousness of independent Claims 1 and 8 and Claims that depend thereon. Accordingly, the Appellants respectfully request the Review Panel to remove the rejection of Claims 1, 3, 6, 8, 10, and 13 and allow issuance thereof.

II. Rejection of Claims 2, 4-5, 7, 9, 11-12, and 14 under 35 U.S.C. §103

The Examiner has rejected Claims 2, 4-5, 7, 9, 11-12, and 14 under 35 U.S.C. §103(a) as being unpatentable over AAPA in view of Nakamura, *et al.*, in further view of Alelyunas, and in further view of U.S. Patent No. 5,471,508 to Koslov. As established above regarding independent Claims 1 and 8, the cited combination of AAPA, Nakamura, and Alelyunas does not establish a *prima facie* case of obviousness of independent Claims 1 and 8. The Examiner did not cite Koslov to cure the deficiencies on the cited combination of AAPA, Nakamura, and Alelyunas but to teach the subject matter of the above-mentioned dependent Claims. (See Examiner's Final Rejection electronically delivered June 4, 2007, pages 6-8.) As such, the cited combination of AAPA, Nakamura, Alelyunas, and Koslov does not establish a *prima facie* case of obviousness of independent Claims 1 and 8 and Claims that depend thereon. Accordingly, the Appellants respectfully request the Review Panel to remove the §103(a) rejection of Claims 2, 4-5, 7, 9, 11-12, and 14 and allow issuance thereof.

III. Rejection of Claims 15, 17, and 20 under 35 U.S.C. §103

The Examiner has rejected Claims 15, 17, and 20 under 35 U.S.C. §103(a) as being unpatentable over Alelyunas in view of a portion of a textbook prepared by Rappaport, in further

view of AAPA, and in further view of Nakamura, *et al.* As established above, the cited combination of AAPA, Nakamura, and Alelyunas does not establish a *prima facie* case of obviousness of independent Claims 1 and 8. Analogously, the cited combination of AAPA, Nakamura, and Alelyunas does not establish a *prima facie* case of obviousness of independent Claim 15. Rappaport was not cited to cure the deficiencies of the cited combination of AAPA, Nakamura, and Alelyunas but to teach a QAM signal that includes a combination of amplitude modulation and phase modulation. (See Examiner's Final Rejection electronically delivered June 4, 2007, page 9.) As such, the cited combination of AAPA, Nakamura, Alelyunas, and Rappaport does not establish a *prima facie* case of obviousness of independent Claim 15 and Claims that depend thereon. Accordingly, the Appellants respectfully request the Review Panel remove the §103(a) rejection of Claims 15, 17, and 20 and allow issuance thereof.

IV. Rejection of Claims 16, 18-19, and 21 under 35 U.S.C. §103

The Examiner has rejected Claims 16, 18-19, and 21 under 35 U.S.C. §103(a) as being unpatentable over Alelyunas in view of Rappaport, AAPA, and Nakamura, and in further view of Koslov. As established above, the cited combination of AAPA, Nakamura, Alelyunas, and Rappaport does not establish a *prima facie* case of obviousness of independent Claims 15. The Examiner did not cite Koslov cure the noted deficiencies of the cited combination of AAPA, Nakamura, Alelyunas, and Rappaport but to teach the subject matter of the above-mentioned dependent Claims. (See Examiner's Action electronically delivered June 4, 2007, pages 11-12.) As such, the cited combination of AAPA, Nakamura, Alelyunas, Rappaport, and Koslov does not establish a *prima facie* case of obviousness of independent Claim 15 and Claims that depend thereon.

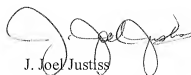
Accordingly, the Appellants respectfully request the Review Panel remove the §103(a) rejection of Claims 16, 18-19, and 21 and allow issuance thereof.

V. Conclusion

In view of the foregoing remarks, the Appellants see all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1-21. The Appellants request the Reviewers to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

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Dated: September 4, 2007

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